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ATTORNEYS FOR Third-Party Defendant
Wellpower Sporting Goods Co., Ltd.

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HOWARD R. LAY and JOANNE LAY, his
wife,

Plaintiff,

v.

MODELL'S SPORTING GOODS; SPARQ,
INC., NIKE, INC., ABC, INC. (1-10), and
John Doe (1-10), being fictitious, jointly,
individually, and in the alternative,

Defendants.

HONORABLE Mary L. Cooper
Civil Action No. 09-CV-04009 (MLC)

**NOTICE OF WITHDRAWAL OF
WELLPOWER'S
MOTION TO DISMISS
THIRD-PARTY COMPLAINT**

SPARQ PRODUCTS, INC.,

Third-Party Plaintiff,

v.

WELLPOWER SPORTS CO., LIMITED,

Third-Party Defendant.

TO: Richard Evan Barber, Esq.
Haworth Coleman & Gerstman, LLC
45 Broadway, 21st Floor
New York, New York 10006
Attorneys for SPARQ, Inc.

COUNSEL:

PLEASE TAKE NOTICE that Third-Party Defendant Wellpower Sporting Goods Co., Ltd. (incorrectly identified as Wellpower Sports Co. Limited) ("Wellpower"), hereby withdraws its motion to dismiss the Third-Party Complaint of SPARQ Products, Inc. i/s/a SPARQ, Inc. for lack of personal jurisdiction over Wellpower. The motion was scheduled to be heard on September 6, 2011, at 9 a.m. before the Honorable Mary L. Cooper, United States District Judge, United States District Court, District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Room 5000, Trenton, New Jersey.

DAY PITNEY LLP
Attorneys for Third-Party Defendant
Wellpower Sporting Goods Co., Ltd

By: /s/ JOHN C. MALONEY, JR.
JOHN C. MALONEY, JR.
A Member of the Firm

DATED: August 5, 2011

CERTIFICATION

I hereby certify that on this date the original of the within Notice of Withdrawal of Wellpower's Motion to Dismiss the Third-Party Complaint was sent via the Electronic Court filing system for filing to William T. Walsh, Clerk, United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Room 5000, Trenton, New Jersey 08608.

By: /s/ JOHN C. MALONEY, JR.
JOHN C. MALONEY, JR.

DATED: August 5, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the within Notice of Withdrawal of Wellpower's Motion to Dismiss the Third-Party Complaint was served on all counsel of record, as listed below.

Richard Evan Barber, Esq.
Haworth Coleman & Gerstman, LLC
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Attorneys for SPARQ, Inc.

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Attorneys for Modell's Sporting Goods

Martin M. Adler, Esq.
Strongin Rothman & Abrams LLP
70 South Orange Avenue, Suite 240
Livingston, NJ 07039
Attorneys for Nike, Inc.

A courtesy copy of the foregoing was also sent by overnight delivery to the Honorable Mary L. Cooper, United States District Judge, United States District Court for the District of New Jersey, Clarkson S. Fisher Building & U.S. Courthouse, 402 East State Street, Room 5000, Trenton, New Jersey 08608.

By: /s/ JOHN C. MALONEY, JR.
JOHN C. MALONEY, JR.

DATED: August 5, 2011